

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



**CORRECTED  
FISCAL NOTE**

**HB 149 - SB 280**

February 28, 2017

**SUMMARY OF BILL:** Prohibits judicial diversion for persons charged with incest under Tenn. Code Ann. § 39-15-302.

**ESTIMATED FISCAL IMPACT:**

On February 24, 2017, a fiscal note was issued for this bill with the following estimated impact:

*Increase State Expenditures – \$68,600/Incarceration\*.*

Based on additional information received by Fiscal Review Committee staff, this estimate was determined to be in error. The corrected fiscal impact for the bill is estimated as follows:

**(CORRECTED)**

**Decrease State Revenue – \$800/TBI**

**Increase State Expenditures – \$68,600/Incarceration\***

Corrected Assumptions:

- Statistics from the Administrative Office of the Courts show an average of 32.4 convictions for judicial diversion each year over the last five years and 2.4 defendants granted judicial diversion for incest each year over the last five years.
- Further, statistics from the Department of Correction (DOC) show an average of 12.5 admissions, or 39 percent of annual convictions, each year for incest.
- Under common practice, a person granted judicial diversion will be granted probation if the person violates the terms of judicial diversion.
- Prohibiting judicial diversion for incest will result in these defendants being put on probation, for which they will likely serve the remainder of their sentence for violating probation.
- It is assumed that the proposed legislation will result in one person each year being admitted into DOC custody.
- The average time served for incest is 2.73 years.
- According to the DOC, the average operating cost per offender per day for calendar year

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2017 is \$68.75.

- The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on one offenders serving 2.73 years (997.13 days) at a cost of \$68,553 (\$68.75 x 997.13 days) per offender.
- The proposed legislation does not create any new felony cases, but rather affects the disposition of current cases. It is assumed that the courts, public defenders, and district attorneys can accommodate any impact to their operations within their existing resources.
- The Tennessee Bureau of Investigation (TBI) receives \$350 for expungements completed from the successful completion of a diversion program under Tenn. Code Ann. §§ 40-15-102—40-15-106. The proposed legislation will reduce the number of expungements processed by TBI.
- The proposed legislation will decrease the number of expungements that TBI process for incest by an average of 2.4 expungements per year.
- The proposed legislation will result in a recurring decrease in state revenue to TBI of \$840 (2.4 expungements x \$350).

## **CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in blue ink that reads "Krista M. Lee". The signature is written in a cursive, flowing style.

Krista M. Lee, Executive Director

/trm